

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Garfield L. Howard,  
Petitioner

v.

Case No. 1:11-cv-4

Warden, Lebanon Correctional  
Institution,  
Respondent

**ORDER**

This matter is before the Court on the Magistrate Judge's Report and Recommendation filed June 27, 2011 (Doc. 13).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). As of the date of this Order, no objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, we find the Magistrate Judge's Report and Recommendation correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Respondent's motion to dismiss is **GRANTED**. Petitioner's petition for writ of habeas corpus is **DISMISSED** with prejudice.

A certificate of appealability will not issue with respect to petitioner's claims for relief, which this Court has concluded is barred by the statute of limitations because under the first prong of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), "jurists of reason would not find it

debatable as to whether this Court is correct in its procedural rulings.”

This Court certifies that pursuant to 28 U.S.C. § 1915(a)(3) an appeal of this Order would not be taken in good faith, and therefore DENIES petitioner leave to appeal *in forma pauperis*. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

Date: July 19, 2011

s/Sandra S. Beckwith  
Sandra S. Beckwith, Senior Judge  
United States District Court